

APPEAL NO. 022885
FILED DECEMBER 19, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 21, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) sustained a compensable single event injury on _____, and that the claimant did not have disability resulting from the compensable injury. The claimant appeals the disability determination and argues that the hearing officer erred in not allowing the claimant's subpoenaed witnesses to testify at the CCH. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The determination that the claimant sustained a compensable injury on _____, was not appealed and has become final. Section 410.169. Although the hearing officer found that the claimant sustained a compensable injury, he was not persuaded that the claimant was unable to obtain or retain employment at wages equivalent to her preinjury wage because of any injury sustained on _____. The claimant had the burden to prove that she sustained disability as defined by Section 401.011(16). The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. This includes medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). We conclude that the hearing officer's disability determination is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The claimant also appeals the hearing officer's decision to exclude the testimony of the claimant's coworkers. We review the hearing officer's ruling on an abuse-of-discretion standard. We have held that to obtain reversal of a judgment based upon error in the admission or exclusion of evidence, the complaining party must show that the error was reasonably calculated to cause and probably did cause the rendition of an improper judgment. Hernandez v. Hernandez, 611 S.W.2d 732 (Tex. Civ. App.-San Antonio 1981, no writ). In this case, the hearing officer excluded the testimony from the coworkers on the basis that their names were not exchanged as witnesses. See Sections 410.160(4) and 410.161. We find no abuse of discretion in the hearing officer's exclusion of the testimony of witnesses whose names were untimely exchanged.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Chris Cowan
Appeals Judge